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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,370	09/08/2000	Lester D. Nelson	FXPL-01016US0 MCF/KJD	3329
23910	7590	06/25/2004	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			HU, JINSONG	
			ART UNIT	PAPER NUMBER
			2154	
DATE MAILED: 06/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/657,370

Applicant(s)

NELSON, LESTER D.

Examiner

Jinsong Hu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-25 are presented for examination. Claims 1 and 11 have been amended; Claims 19-25 are newly added claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5 and 7-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Zahavi et al. (US 6,577,859).

4. Zahavi is a prior art cited by Applicant on form 1449 dated to 4/14/04.

5. As per claims 1 and 11, Zahavi teaches the invention as claimed including a method for communicating [col. 1, lines 8-10], comprising the steps of:

accessing a conversation representation [100, Fig. 3; col. 4, lines 3-8]; selecting the conversation representation [105, Fig. 3; col. 3, lines 54-65]; obtaining an internal representation of a conversation element associated with the conversation

representation [110, 115, Fig. 3; col. 4, lines 9-25]; and generating a audible utterance based on the internal conversation element, wherein the audible utterance comprises a statement to be transmitted to a remote party as part of an ongoing conversation [Fig. 3; col. 4, line 26 – col. 5, line 62].

6. As per claims 2-4, Zahavi teaches the steps of accessing a plurality of conversation representations and selecting a first and a second conversation representation [col. 3, lines 53-65].

7. As per claim 5, Zahavi teaches the conversation representation is in a Graphical User Interface [14, Fig. 2].

8. As per claims 8, 10 and 13, Zahavi teaches the step of altering, deleting and adding conversation representation [col. 5, lines 22-41].

9. As per claims 9, 12 and 14, Zahavi teaches the step of altering, deleting and adding conversation element [col. 5, lines 22-41].

10. As per claims 15 and 18, Zahavi teaches the step of recording a conversation element, wherein includes text-to-speech processing [col. 6, lines 23-28; col. 7, lines 28-32].

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11. As per claim 16, Zahavi teaches the step of downloading the conversation representation and conversation element from a host computer [col. 4, lines 1-3 & 39-51].

12. As per claim 17, Zahavi teaches the step of uploading the conversation representation and conversation element from a host computer [col. 4, lines 26-38; col. 5, lines 20-32].

13. As per claim 19, Zahavi teaches the invention as claimed including a method for communication [col. 1, lines 8-10], comprising the steps of:

accepting a conversation representation [100, Fig. 3; col. 4, lines 3-8]; obtaining an internal representation of a conversation element associated with the conversation representation, the conversation element comprising a complete statement [110, 115, Fig. 3; col. 4, lines 9-25]; and generating a audible utterance based on the internal conversation element, wherein the audible utterance comprises a statement to be transmitted to a remote party as part of an ongoing conversation [Fig. 3; col. 4, line 26 – col. 5, line 62].

14. As per claim 20, Zahavi teaches the audible utterance is configured to disclose to a remote party that a local party is temporarily unable to continue the conversation [col. 4, lines 26-38; col. 7, lines 28-32].

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15. As per claims 21 and 24, Zahavi teaches the audible utterance is configured to disclose to a remote party that a local party is ending the conversation [col. 4, line 63 – col. 5, line 5; col. 7, lines 28-32].

16. As per claim 22, Zahavi teaches the audible utterance is configured to disclose to a remote party that a local party cannot conventionally speak, but wishes for the remote user to continue speaking [col. 5, line 63 – col. 6, line 10].

17. As per claim 23, Zahavi teaches the audible utterance is configured to respond to a query from the remote party [col. 5, lines 6-32].

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 6-7 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zahavi et al. (US 6,577,859) applied to claims 1-5 and 8-24 above.

20. As per claims 6 and 7, Zahavi teaches the invention substantially as claimed in claim 1. Zahavi does not specifically teach the conversation representation is selected

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from a group consisting of an icon, a symbol, a figure, a graph, a checkbox, a GUI widget and a graphics button. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include these conversation representations in Zahavi's system because doing so would bring convenience to user by providing a friendly interface with various easy-understood symbol to user. One of ordinary skill in the art would have been motivated to modify Zahavi's system to improve the functionality of the system.

21. As per claim 25, Zahavi teaches the invention substantially as claimed in claim 1. Zahavi does not specifically teach the audible utterance is configured to disclose to a remote party that a local party will communicate the remote party through a computer. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include this disclosure in Zahavi's system when the situation permits a computer communication or the local party preferred to so for particular concerning. One of ordinary skill in the art would have been motivated to modify Zahavi's system with this disclosure to make the system more flexible.

Conclusion

22. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP §706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

24. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (703) 306 – 5932.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee, can be reached on (703) 305-8498. The fax number for this Group 2100 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 305-3900.

Jinsong Hu

June 24, 2004



ZARNI MAUNG
PRIMARY EXAMINER